

ORDINANCE NO. 2014-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS, AMENDING THE GRAPEVINE CODE OF ORDINANCES ADDING A NEW ARTICLE REGULATING SEX OFFENDER RESIDENCY; REPEALING CONFLICTING ORDINANCES; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council (the "City Council") of the City of Grapevine, Texas (the "City"), finds and determines that child sex offenders represent a serious threat to public safety; and

WHEREAS, the City Council finds and determines that the risk of recidivism posed by sex offenders is frightening and high; and

WHEREAS, the City Council finds and determines that child sex offenders who reside near places where children gather pose a great risk to a large number of children; and

WHEREAS, the City Council finds and determines that the City has a legitimate interest in the protection of children and that the following residency restrictions are enacted to provide protection for children in the City by minimizing sex offenders' access and proximity to areas where children gather; and

WHEREAS, the City of Grapevine is a Home Rule municipality having full powers of self-government and may enact ordinances relative to its citizens' health, safety, and welfare that are not inconsistent with the Constitution and laws of the State; and

WHEREAS, the Texas Attorney General has concluded that State law does not preempt a home-rule municipality's ordinance prohibiting registered sex offenders from living within a specified distance from locations where children typically congregate; and

WHEREAS, the City Council finds and declares that the meeting at which this Ordinance is considered is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code; and

WHEREAS, the City Council finds and determines that the adoption of this Ordinance is in the best interests of and necessary to protect the health, safety, and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS:

Section 1. That all of the findings contained hereinabove are found to be true and correct and are incorporated into this Ordinance by reference as if copied herein.

Section 2. That the City of Grapevine Code of Ordinance, Chapter 15 Offenses and Miscellaneous Provisions, is hereby amended by adding the following Article V. which and shall read as follows:

“ARTICLE V. SEX OFFENDER RESIDENCY RESTRICTIONS

Sec. 15-50. Definitions

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Permanent residence: A place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

Premises where children commonly gather: Includes but is not limited to a park, playground, school, day care facility, video arcade facility, public or private youth center, registered home daycare, recreational hiking and biking trails, or public swimming pool, as those terms are defined in section 481.134 of the Texas Health and Safety Code or commonly used in the City of Grapevine.

Sex offender: A person who is required to register on the state department of public safety's sex offender database because of a violation involving a victim who was less than eighteen (18) years of age. It shall be prima facie evidence that this article applies to a sex offender if the person's record as it appears on the state department of public safety's sex offender database indicates that the victim was less than eighteen (18) years of age.

Temporary residence: A place where the person abides, lodges, or resides for less than fourteen (14) days or fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, resides, or lodges for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Sec. 15-51. Prohibited areas; exceptions

- (a) It is unlawful for a sex offender to establish a permanent residence or temporary residence within 2,000 feet of any premises where children commonly gather.

- (b) For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the property lot line of the permanent or temporary residence to the nearest property lot line of the premises where children commonly gather, as described herein.
- (c) Any person violating a provision of this section shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine not to exceed \$500.
- (d) No culpable mental state is required to be proven by the prosecution as an element of this offense.
- (e) Nothing in this article shall be interpreted to modify or reduce the State's safety ban.
- (f) The following are affirmative defenses to a violation of subsection (a):
 - (1) The person established the permanent or temporary residence and has complied with all the sex offender registration laws of the state prior to the date of the adoption of this section;
 - (2) The person was a minor when he/she committed the offense and was not convicted as an adult;
 - (3) The person is a minor;
 - (4) The premises where children commonly gather, specified herein, within 2,000 feet of the children's or the person's permanent or temporary residence was opened after the person established the permanent or temporary residence, and the person has complied with all sex offender registration laws of the state; or
 - (5) The person proves that the information on the database is incorrect and that, if corrected, this section would not apply to the person.

Sec. 15-52. Renting to person prohibited from establishing residence

- (a) It is unlawful to let or rent any place, structure or part thereof with the knowledge that it will be used as a permanent or temporary residence by a sex offender prohibited from establishing such permanent residence or temporary residence pursuant to the terms of this article.
- (b) No lease or rental agreement or arrangement which would otherwise violate this Section shall be extended or renewed beyond the term in place as of January 21, 2014.

(c) Any person, firm or corporation violating a provision of this section shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine not to exceed \$500.00."

Section 3. That all ordinances or any parts thereof in conflict with the terms of this ordinance shall be and hereby are deemed repealed and of no force or effect.

Section 4. That any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be fined as herein provided. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Section 5. That if any section, subsection, sentence, clause or phase of this ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

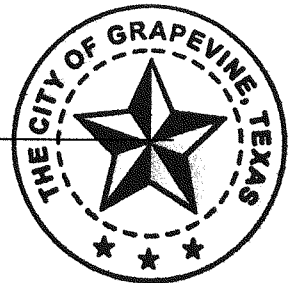
Section 6. That the fact that the present ordinances and regulations of the City of Grapevine, Texas are inadequate to properly safeguard the health, safety, morals, peace and general welfare of the inhabitants of the City of Grapevine, Texas, creates an emergency for the immediate preservation of the public business, property, health, safety and general welfare of the public which requires that this ordinance shall become effective from and after the date of its passage, and it is accordingly so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS, on this 21st day of January, 2014.

APPROVED:



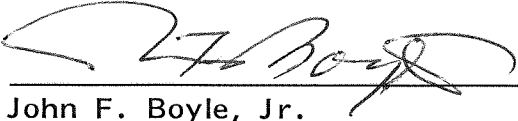
William D. Tate
Mayor



ATTEST:


Jodi C. Brown
City Secretary

APPROVED AS TO FORM:



John F. Boyle, Jr.
City Attorney